

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ASTELLAS INSTITUTE FOR REGENERATIVE)
MEDICINE, and STEM CELL & REGENERATIVE)
MEDICINE INTERNATIONAL, INC.,)
Plaintiffs,) C.A. NO. 1:17-cv-12239-DJC
v.) **FILED UNDER SEAL**
IMSTEM BIOTECHNOLOGY, INC., XIAOFANG) **LEAVE TO FILE GRANTED ON**
WANG, and REN-HE XU,) **01/09/2020 (Dkt. 141)**
Defendants.)

)

**DECLARATION OF TIMOTHY R. SHANNON IN IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Timothy R. Shannon, state as follows:

1. I am an attorney at the firm Verrill Dana LLP, One Portland Square, Portland, ME 04101, counsel of record for the defendants ImStem Biotechnology, Inc., Ren-He Xu, and Xiaofang Wang (collectively, the “Defendants”). I am over the age of 18, am fully competent to make this declaration, and make this declaration on personal knowledge.

2. Attached hereto as **Exhibit 1** is a true and accurate copy of U.S. Patent No. 8,962,321 (filed Nov. 30, 2012) (IMSTEM-0044526) (“321 Patent”).

3. Attached hereto as **Exhibit 2** is a true and accurate copy of International Patent Application No. WO2013/082543 (filed Nov. 30, 2012) (AIRM00294150) (“321 PCT”).

4. Attached hereto as **Exhibit 3** is a true and accurate copy of Email from Xiaofang Wang to Susie S. Cheng (June 20, 2013 10:49 PM) (IMSTEM-0043610) (redacted) with excerpted attachment.

5. Attached hereto as **Exhibit 4** is a true and accurate copy of International Patent Application Publication No. WO 2014/011407 (filed June 27, 2013) (AIRM00037251) ("551 PCT").

6. Attached hereto as **Exhibit 5** is a true and accurate copy of U.S. National Stage Application No. 14/413,290 (filed Jan. 7, 2015) (IMSTEM-0039650) ("551 Non-Provisional").

7. Attached hereto as **Exhibit 6** is a true and accurate copy of an Information Disclosure Statement ("IDS") and accompanying documents filed in connection with the '551 Non-Provisional on June 1, 2016 (IMSTEM-0039591).

8. Attached hereto as **Exhibit 7** is a true and accurate copy of a Non-Final Office Action mailed by the USPTO in connection with the '551 Non-Provisional on July 28, 2016 (IMSTEM-0043278).

9. Attached hereto as **Exhibit 8** is a true and accurate copy of an Amendment under 37 C.F.R. § 1.111 and accompanying documents filed in connection with the '551 Non-Provisional on January 17, 2017 (IMSTEM-0039536).

10. Attached hereto as **Exhibit 9** is a true and accurate copy of the Expert Report of Dr. Bryan Zerhusen (Nov. 1, 2019), exhibits omitted.

11. Attached hereto as **Exhibit 10** is a true and accurate copy of a Notice of Allowance and accompanying documents mailed by the USPTO in connection with the '551 Non-Provisional on May 5, 2017 (IMSTEM-0019658).

12. Attached hereto as **Exhibit 11** is a true and accurate copy of the Expert Rebuttal Report of Bruce Bunnell, PH.D. (Nov. 1, 2019).

13. Attached hereto as **Exhibit 12** is a true and accurate copy of the Rebuttal Expert Report of John M. Perry, PH.D (Nov. 1, 2019), exhibits omitted.

14. Attached hereto as **Exhibit 13** is a true and accurate copy of Emails between Erin Kimbrel and Matthew Vincent (June 28, 2013) (AIRM00031180)).

15. Attached hereto as **Exhibit 14** is a true and accurate copy of the Opening Expert Report of Bruce Bunnell, PH.D. (Oct. 4, 2019), exhibits omitted.

16. Attached hereto as **Exhibit 15** is a true and accurate copy of excerpts of the Deposition Transcript of Lisa Fortier, D.V.M., Ph.D (Dec. 4, 2019).

Signed under the pains and penalties of perjury this 10th day of January, 2020.

/s/ *Timothy R. Shannon*
Timothy R. Shannon

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of this document to be filed in accordance with the Court's procedures through the CM/ECF system, to be sent electronically to the registered participants, and paper copies to be sent to those indicated as nonregistered participants.

Dated: January 10, 2020

/s/ *Timothy R. Shannon*
Timothy R. Shannon